

REMARKS

No new matter is added by this Amendment. The present application is a continuation application claiming priority to U.S. Patent Application Serial No. 10/457,963, filed June 10, 2003. By this amendment claim 1 has been cancelled. The claims remaining in consideration are claims 20-28. Reconsideration is respectfully requested.

Claims 20, 21, and 26 were rejected under 35 USC §102(b) as being anticipated by US Patent 5,464,742 issued November 7, 1995 to Michael Swift et al ("Swift"). This rejection is respectfully traversed.

Claim 20 is the only independent claim and sets forth a method includes the steps of "establishing a set of occurrences of a physical event" and "determining a degree of association for each occurrence". The method also includes the step of "identifying a subset of the occurrences having a degree of association less than a predetermined value".

Swift does not include the step of "identifying a subset of the occurrences having a degree of association less than a predetermined value". The Examiner states that Swift meets this step by stating: Swift "discloses step [sic] of determining the presence of said disease within blood relatives of the index individuals and selecting individual and a test individual who has the disease". However, the Examiner's argument fails for several reasons. First, the Examiner's statement of Swift is related to the selection of individuals and not occurrences of physical events as required by independent claim 20 (some of which have the disease, i.e., the "individual" and the "test individual", and some of which may or may not have the disease, i.e., the individual's family). Second, the criteria to select this "group" of individuals is based on the individual and not based on the occurrence of the physical event, as required by independent claim 20.

Since Swift does not include one or more steps of independent claim 20, the §102(b) rejection of independent claim 20 is improper. Applicants respectfully request that it be withdrawn. Claims 21 and 26 are ultimately dependent upon claim 20. Therefore for the reasons set forth above and based on their own merits, applicants respectfully assert that independent claim 20 is allowable over Swift.

Claims 20-28 were rejected under the judicially created doctrine of obvious-type double patenting over the claims of US Patent Nos. 6,360,184, 6,460,011, 6,704,684, and 6,738,728. A responsive Terminal Disclaimer is enclosed. Therefore, applicants respectfully request that the obvious-type double patenting rejection be withdrawn.

Also enclosed herewith is a check in the amount of \$55.00 to cover the Terminal Disclaimer fee under 37 CFR 1.20(d). The Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789.

Applicants respectfully assert that the present application is now in condition for allowance. An early notice of allowance is solicited. If the Examiner feels that a telephone interview would be appropriate, please contact the undersigned at the number below.

Respectfully submitted,

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